

HONORABLE ROSANNA MALOUF PETERSON

MICHAEL E. McFARLAND, JR., #23000  
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Attorneys for Defendants

IN UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

ESTATE OF DEAN FUNABIKI, by  
and through personal representative,  
RUTH FUNABIKI, ABBY  
FUNABIKI, and EMILY FUNABIKI,

Plaintiffs,

vs.

COUNTY OF WHITMAN; JOHN  
DOE 1, in his or her representative  
capacity; and DOES 4-5, in their  
personal capacities,

Defendants.

Cause No. 2:21-cv-00089-RMP

DEFENDANTS' ANSWER TO  
PLAINTIFF'S SECOND  
AMENDED COMPLAINT

COMES NOW Defendant WHITMAN COUNTY, by and through its  
undersigned attorney of record, Michael E. McFarland, Jr. of the law firm Evans,  
Craven & Lackie, P.S., and hereby enters its Answer to Plaintiffs' Second  
Amended Complaint as follows:

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DEFENDANT'S ANSWER TO PLAINTIFFS'  
SECOND AMENDED COMPLAINT - page 1

*Evans, Craven & Lackie, P.S.*  
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**I. PARTIES**

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2  
3 1. This answering defendant is without sufficient evidence to admit or  
4 deny the allegations contained in Paragraph 1 of Plaintiffs' Second Amended  
5 Complaint and therefore denies the same.  
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7 2. This answering defendant is without sufficient information to admit  
8 or deny the allegations contained in Paragraph 2 of Plaintiffs' Second Amended  
9 Complaint and therefore denies the same.  
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11 3. This answering defendant is without sufficient information to admit  
12 or deny the allegations contained in Paragraph 3 of Plaintiffs' Second Amended  
13 Complaint and therefore denies the same.  
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16 4. This answering defendant is without sufficient information to admit  
17 or deny the allegations contained in Paragraph 4 of Plaintiffs' Second Amended  
18 Complaint and therefore denies the same.  
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21 5. This answering defendant admits that it is a county in the State of  
22 Washington and that it owns and operates the Whitman County Jail. The  
23 remaining allegations contained in Paragraph 5 of Plaintiffs' Second Amended  
24 Complaint constitute legal conclusions to which no response is deemed  
25 necessary. To the extent a response is deemed necessary, this answering  
26 defendant denies all allegations of liability that may be contained therein.  
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1           6.     This answering defendant is without sufficient information to admit  
2 or deny the allegations contained in Paragraph 6 of Plaintiffs' Second Amended  
3 Complaint and therefore denies the same.  
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5           7.     This answering defendant is without sufficient information to admit  
6 or deny the allegations contained in Paragraph 7 of Plaintiffs' Second Amended  
7 Complaint and therefore denies the same.  
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10                                   **II.    JURISDICTION**

11           8.     This answering defendant admits the allegations contained in  
12 Paragraph 8 of Plaintiffs' Second Amended Complaint.  
13

14           9.     This answering defendant admits the allegations contained in  
15 Paragraph 9 of Plaintiffs' Second Amended Complaint.  
16

17           10.    This answering defendant admits the allegations contained in  
18 Paragraph 10 of Plaintiffs' Second Amended Complaint.  
19

20           11.    Paragraph 11 of Plaintiffs' Second Amended Complaint does not  
21 contain assertions which require a response. To the extent a response is required,  
22 this answering defendant denies all allegations of liability contained in Paragraph  
23 11 of Plaintiffs' Second Amended Complaint.  
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**III. FACTS**

12. This answering defendant admits the allegations contained in Paragraph 12 of Plaintiffs' Second Amended Complaint.

13. This answering defendant admits the allegations contained in Paragraph 13 of Plaintiffs' Second Amended Complaint.

14. This answering defendant admits that Whitman County Jail was aware of Dean Funabiki's date of birth. This answering defendant denies that Whitman County Jail was aware that Dean Funabiki had no criminal history.

15. This answering defendant admits that Whitman County Jail was aware that Dean Funabiki was being held on a serious felony charge. This answering defendant is without sufficient information to admit or deny the remaining allegations contained in Paragraph 15 of Plaintiffs' Second Amended Complaint and therefore denies the same.

16. This answering defendant denies the allegations contained in Paragraph 16 of Plaintiffs' Second Amended Complaint.

17. This answering defendant denies the allegations contained in Paragraph 17 of Plaintiffs' Second Amended Complaint.

18. This answering defendant denies the allegations contained in Paragraph 18 of Plaintiffs' Second Amended Complaint.

1           19. This answering defendant admits that Dean Funabiki spent time in a  
2 jail cell without a roommate while Whitman County Jail officers supervised him  
3 according to jail policy. This answering defendant further admits that Dean  
4 Funabiki hung himself in his jail cell.  
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7           20. This answering defendant is without sufficient information to admit  
8 or deny the allegations contained in Paragraph 20 of Plaintiffs' Second Amended  
9 Complaint and therefore denies the same.  
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12           21. This answering defendant denies the allegations contained in  
13 Paragraph 21 of Plaintiffs' Second Amended Complaint.  
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#### 15                                   IV. CLAIMS

##### 16           **First Claim – Title 42 United States Code § 1983, Deliberate Indifference**

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18           This answering defendant re-alleges and reincorporates the foregoing  
19 paragraphs as if fully asserted herein.  
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21           22. The allegations contained in Paragraph 22 of Plaintiffs' Second  
22 Amended Complaint constitute legal conclusions to which no response is  
23 deemed necessary. To the extent a response is deemed necessary, this answering  
24 defendant denies the allegations contained in Paragraph 22 of Plaintiffs' Second  
25 Amended Complaint.  
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1           23. The allegations contained in Paragraph 23 of Plaintiffs' Second  
2 Amended Complaint constitute legal conclusions to which no response is  
3 deemed necessary. To the extent a response is deemed necessary, this answering  
4 defendant denies the allegations contained in Paragraph 23 of Plaintiffs' Second  
5 Amended Complaint.  
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8           24. This answering defendant denies the allegations contained in  
9 Paragraph 24 of Plaintiffs' Second Amended Complaint.  
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11           25. To the extent Plaintiffs allege that any Whitman County deputy  
12 sheriff/corrections officer acted with deliberate indifference toward Dean  
13 Funabiki, said allegations are denied.  
14

15           26. To the extent Plaintiffs allege that any Whitman County deputy  
16 sheriff/corrections officer acted with deliberate indifference toward Dean  
17 Funabiki, or acted in any way to give rise to liability in this matter, said  
18 allegations are denied.  
19

20           27. This answering defendant is without sufficient information to admit  
21 or deny the identity of Dean Funabiki's statutory beneficiaries. This answering  
22 defendant denies all allegations of liability contained in Paragraph 27 of  
23 Plaintiffs' Second Amended Complaint.  
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**Second Claim – Negligence**

28. This answering defendant re-alleges and reincorporates the foregoing paragraphs as if fully set forth herein.

29. This answering defendant admits the allegations contained in Paragraph 29 of Plaintiffs' Second Amended Complaint.

30. This answering defendant admits the allegations contained in Paragraph 30 of Plaintiffs' Second Amended Complaint.

31. This answering defendant admits the allegations contained in Paragraph 31 of Plaintiffs' Second Amended Complaint.

32. This answering defendant denies the allegations contained in Paragraph 32 of Plaintiffs' Complaint.

**V. RELIEF**

This answering defendant denies all allegations of liability in this matter and therefore denies that Plaintiffs are entitled to any recovery from this answering defendant. This answering defendant further denies the existence, nature and extent of Plaintiffs' claimed injuries and damages.

To the extent any allegation has not been admitted, or a lack of information claimed, it is denied.

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1 **JURY DEMAND**

2 In accordance with Fed. R. Civ. P. 38 and pursuant to the Seventh  
3  
4 Amendment, this answering defendant hereby demands this matter appear before  
5  
6 a jury.

7 **AFFIRMATIVE DEFENSES**

8 Pursuant to the requirements of FRCP 12, without the benefit of having  
9  
10 conducted any formal discovery in this case, by way of affirmative defenses, and  
11  
12 without admitting any allegations previously denied, Defendant asserts the  
13 following:

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15 1. Contributory negligence/comparative fault on the part of Dean  
16 Funabiki.

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18 2. Plaintiffs have failed to state a claim upon which relief can be  
19 granted.

20  
21 3. Based upon belief, and subject to discovery, Plaintiffs' damages  
22 may be the fault of others.

23  
24 4. To the extent Plaintiffs allege liability against any Whitman County  
25 deputy sheriffs/corrections officers (i.e., the John Doe defendants), those  
26 individuals at all times acted in good faith and thus are entitled to qualified  
27 immunity.  
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1           5.     This answering defendant reserves the right to supplement, strike or  
2 amend the foregoing list of affirmative defenses in keeping with the course of  
3 discovery.  
4

5                                   **DEFENDANT’S PRAYER FOR RELIEF**  
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7           WHEREFORE, having fully answered Plaintiffs’ Second Amended  
8 Complaint, this answering defendant requests that Judgment be entered against  
9 Plaintiffs as follows:  
10

- 11           1.     Judgment dismissing Plaintiffs’ Complaint with prejudice;  
12           2.     Reasonable attorney fees and costs; and  
13           3.     For such other relief as the Court deems equitable.  
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16           DATED this 17<sup>th</sup> day of May, 2021.  
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18                                   EVANS, CRAVEN & LACKIE, P.S.  
19

20                                   By: s/ Michael E. McFarland, Jr.  
21                                   MICHAEL E. McFARLAND, JR., #23000  
22                                   Attorneys for Defendant Whitman County  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 17, 2021 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Jay Krulewitch  
Jeffrey K. Finer  
Email: [jay@krulewitchlaw.com](mailto:jay@krulewitchlaw.com)  
Email: [jfiner@KSBlit.legal](mailto:jfiner@KSBlit.legal)

s/ Michael E. McFarland, Jr.  
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